

Information for Employers - General Information

Last Updated Friday, 13 June 2008

GENERAL INFORMATION Income Withholding Order/Notice

Income withholding is the court or administratively ordered deduction of a specified amount from a parent's income for payment of child support. All employers must honor an income withholding order/notice for child support from any state. Out-of-state income withholding orders/notices are valid throughout the country including US Territories. All states are required to use a standardized withholding form entitled Order/Notice to Withhold Income for Child Support (OMB No. 0970-0154).

A child support income withholding order/notice must be paid before all other garnishments, with one exception. The only exception is a Federal (IRS) tax levy entered prior to when the child support order was established. It is the date the child support order is established, and not the date the withholding order/notice is served on the employer, that determines precedence.

The employer deducts the specified amount of child support each pay period and sends it to the: State Collection and Disbursement Unit (SCaDU)
PO Box 98950
Las Vegas, NV 89193-8950

Payments must be by money order, cashier's check or business check payable to SCaDU, including electronic funds transfer (EFT). E-Mail SCaDU for EFT Instructions.

The following information must be included with each payment:

- Full Name of the employee
- Social Security Number of the employee
- Employer's Name and telephone number
- Amount withheld for each employee \$2 Income Withholding Fee Payable to State Treasurer

Employers are required to deduct an additional \$2.00 fee from the income due the employee for each income withholding, not to exceed two withholding fees per month per employee.

These fees are sent to a different location! The fees are payable at least quarterly to: Nevada State Treasurer's Office

PO Box 98513,

Las Vegas, NV 89193 ***NOTE: THIS IS A FEE AND IS NOT THE CHILD SUPPORT PAYMENT. CHILD SUPPORT PAYMENTS MUST BE SENT TO "SCADU"; AS NOTED ABOVE***

If an employer receives notices to withhold income for more than one employee, the employer may consolidate the fee amounts payable to the State Treasurer and pay those amounts with one check.

Each payment to the State Treasurer must be attached to a statement which provides the full name and social security number of each employee for whom the fee is made, and the fee amount(s) transmitted for the employee.
Employer's Cost Recovery

Nevada Revised Statutes (NRS) 31A.090 allows employers to deduct up to \$3.00 for each withholding from the amount paid the employee as reimbursement for the employer's cost of carrying out their responsibilities. To recap:

- Deduct child support payment, send this to SCaDU.
- Deduct another \$2.00, send to the State Treasurer;
- Deduct up to \$3.00, employer keeps this amount; National Medical Support Notice (NMSN)

To help obtain health care coverage for children, new laws have created the National Medical Support Notice (NMSN) which must be used by state child support enforcement agencies. States were required to begin using the NMSN in October 2001, although many states have had to delay implementation until enactment of required state enabling legislation. Nevada law mandates the use of the NMSN effective July 1, 2003. An appropriately completed NMSN is considered to be a "Qualified Medical Child Support Order," or QMCSO, and as such must be honored by the employer's group health plan.

The NMSN complies with section 609 (a)(3) and (4) of ERISA, which pertains to informational requirements and restrictions against requiring new types or forms of benefits. It also includes:

- applicable state law provisions for withholding employee contributions due under any group health plan in connection with coverage required to be provided;
- duration of the withholding requirement;
- applicability of limitations on such withholding under Title III of the Consumer Credit Protection Act, or similar state law;
- the name and telephone number of the appropriate unit or division to contact at the state agency regarding the

NMSN. The NMSN is actually four documents and instructions:

- Part A- Notice to Withhold For Health Care Coverage, will be completed by the child support agency and sent to the employer with the rest of the packet.
- "Employer Response" is just that, your opportunity to respond to the request if one of the following situations exists:
 - You do not provide health care coverage for your employees.
 - The employee is not eligible for the health care coverage you provide.
 - The employee has been terminated or has left this employment.
 - The deduction for health care coverage cannot be made because of state or federal withholding limits. These limitations will be included in the instructions for completing the NMSN.

Otherwise, follow the steps below to comply with the NMSN.

- Part B- Medical Support Notice To Plan Administrator. This document should be forwarded to your health care plan administrator for handling.
- "Plan Administrator Response" is completed by your Plan Administrator according to the accompanying instructions and returned to the child support agency.
- The plan administrator must send a copy of all health insurance information necessary to access benefits to the custodial parent including health plan identification cards and claim forms if applicable.
- The employer must notify the issuing agency if the employment or health care coverage stops.

The National Medical Support Notice - OMB-0970-0222 form may be accessed on the internet at

<http://www.acf.hhs.gov/programs/cse/forms/OMB-0970-0222.pdf> What to do when you Receive a NMSN

- Step 1: Once you receive the NMSN, determine whether any of the four categories on the Employer Response apply to you or this employee. You may only be able to determine whether one of the first three apply at this stage.

- Step 2: If so, complete the Employer Response form and return it to the Issuing Agency within 20 business days. If none of the four categories on the Employer Response apply to you or this employee, forward Part B to your plan administrator.

- Step 3: The plan administrator will notify you when enrollment has been completed. You must then notify your payroll to make the appropriate deductions for employee contribution required under the health plan. It is at this point that you may determine that the total deductions exceed the maximum allowed under the Consumer Credit Protection Act, and any applicable state law.

- Step 4: If, in fact, you determine that the amount of support coupled with the deduction for health care premiums exceeds the maximum deduction allowable, you must look to state law in the state where the employee is employed to determine the priority for withholding of the payment allowable (in the state of Nevada that limit is 50% of the employee's aggregate disposable income). The Nevada Child Support Enforcement Program adopted a state regulation, effective October 1, 2007, regarding income withholding hierarchy; please see the regulation below under the section titled Employer Responsibilities.

If the CCPA limits preclude payment of ongoing support and health care premiums you must notify the issuing agency by completing No. 4 on the Employer Response form and send the form to the requesting child support agency within 20 days.

- Step 5: If enrollment cannot be completed until after a waiting period or other contingency, you must notify the Plan Administrator when the employee is eligible for enrollment.

In order to be "qualified," a medical support order must clearly specify:

- the name and last known address of the participant and the name and address of each child covered by the order;
- a reasonable description of the coverage to be provided, or the manner in which coverage will be determined; and
- the period for which the order applies.

State laws require that health care coverage be provided under a medical support order even if the child:

- was born out of wedlock,
 - is not claimed as a dependent for tax purposes, or
 - does not reside with the parent or in the insurer's service area.
- Instructions to Employer

This document serves as notice that the employee identified on this National Medical Support Notice is obligated by a court or administrative child support order to provide health care coverage for the child(ren) identified on this Notice. This National Medical Support Notice replaces any Medical Support Notice that the Issuing Agency has previously served on you with respect to the employee and the children listed on this Notice. If the employee already has enrolled the child(ren) in health care coverage, the employer should contact the issuing agency to provide coverage information.

The document consists of Part A - Notice to Withhold for Health Care Coverage for the employer to withhold any

employee contributions required by the group health plan(s) in which the child(ren) is/are enrolled; and Part B - Medical Support Notice to the Plan Administrator, which must be forwarded to the administrator of each group health plan identified by the employer to enroll the eligible child(ren), or completed by the employer, if the employer serves as the health plan administrator. Employer Responsibilities

- If the individual named above is not your employee, or if family health care coverage is not available, please complete item 1, 2, or 3 of the Employer Response as appropriate, and return it to the Issuing Agency. **NO FURTHER ACTION IS NECESSARY.**

- If family health care coverage is available for which the child(ren) identified above may be eligible, you are required to:

- Transfer, not later than 20 business days after the date of this Notice, a copy of Part B - Medical Support Notice to the Plan Administrator to the administrator of each appropriate group health plan for which the child(ren) may be eligible, and

- Upon notification from the plan administrator(s) that the child(ren) is/are enrolled, either:

- withhold from the employee's income any employee contributions required under each group health plan, in accordance with the applicable law of the employee's principal place of employment and transfer employee contributions to the appropriate plan(s), or

- complete item 4 of the Employer Response to notify the Issuing Agency that enrollment cannot be completed because of prioritization or limitations on withholding.

- If the plan administrator notifies you that the employee is subject to a waiting period that expires more than 90 days from the date of its receipt of Part B of this Notice, or whose duration is determined by a measure other than the passage of time (for example, the completion of a certain number of hours worked), notify the issuing agency of the enrollment timeframe and notify the plan administrator when the employee is eligible to enroll in the plan and that this Notice requires the enrollment of the child(ren) named in the Notice in the plan.

Limitations on Withholding

The total amount withheld for both cash and medical support cannot exceed 50% of the employee's aggregate disposable weekly earnings. The employer may not withhold more under this National Medical Support Notice than the lesser of:

- The amounts allowed by the Federal Consumer Credit Protection Act (15 U.S.C., section 1673(b));
- The amounts allowed by the State of the employee's principal place of employment; or

The Federal limit applies to the aggregate disposable weekly earnings (ADWE). ADWE is the net income left after making mandatory deductions such as State, Federal, local taxes; Social Security taxes; and Medicare taxes. As required under section 2.b.2 of the Employer Responsibilities on prior page, complete item 4 of the Employer Response to notify the Issuing Agency that enrollment cannot be completed because of prioritization or limitations on withholding.

Priority of Withholding

If withholding is required for employee contributions to one or more plans under this notice and for a support obligation under a separate notice and available funds are insufficient for withholding for both cash and medical support contributions, the employer must withhold amounts for purposes of cash support and medical support contributions in accordance with the law, if any, of the State of the employee's principal place of employment requiring prioritization between cash and medical support. The Nevada Child Support Enforcement Program adopted a state regulation regarding an income withholding hierarchy. Please allocate the funds available according to the regulation below. **STATE REGULATION EFFECTIVE OCTOBER 1, 2007** When there are insufficient funds available to meet the employee's contribution necessary for health coverage for the child(ren) and also to comply with any income withholding orders received by the employer, up to the limits of the Consumer Credit Protection Act, 15 U.S.C. 1673(b), the employer shall allocate the funds available in accordance with the following priority, unless a court or administrative order directs otherwise:

- Current child and spousal support;
- Health insurance premiums or current cash medical support;
- Arrearages; and
- Other child support obligations.

If an employee has insufficient funds available to enroll the child(ren) in the health insurance program due to the CCPA limits, follow Section 2.b.2 of the Employer Responsibilities on the prior page and complete item 4 of the Employer Response, and return the form to the Issuing Agency advising enrollment cannot be completed due to insufficient funds.

Duration of Withholding

The child(ren) shall be treated as dependents under the terms of the plan. Coverage of a child as a dependent will end when similarly situated dependents are no longer eligible for coverage under the terms of the plan. However, the continuation coverage provisions of ERISA may entitle the child to continuation coverage under the plan. The employer must continue to withhold employee contributions and may not disenroll (or eliminate coverage for) the child(ren) unless:

- The employer is provided satisfactory written evidence that:

- The court or administrative child support order referred to above is no longer in effect; or
- The child(ren) is or will be enrolled in comparable coverage which will take effect no later than the effective date of disenrollment from the plan; or
- The employer eliminates family health coverage for all of its employees.

Possible Sanctions

An employer may be subject to sanctions or penalties imposed under State law and/or ERISA for discharging an employee from employment, refusing to employ, or taking disciplinary action against any employee because of medical child support withholding, or for failing to withhold income, or transmit such withheld amounts to the applicable plan(s) as the Notice directs. Notice of Termination of Employment

In any case in which the above employee's employment terminates, the employer must promptly notify the Issuing Agency listed above of such termination. This requirement may be satisfied by sending to the Issuing Agency a copy of any notice the employer is required to provide under the continuation coverage provisions of ERISA or the Health Insurance Portability and Accountability Act. Employee Liability for Contribution to Plan

The employee is liable for any employee contributions that are required under the plan(s) for enrollment of the child(ren) and is subject to appropriate enforcement. The employee may contest the withholding under this Notice based on a mistake of fact (such as the identity of the obligor). Should an employee contest the withholding under this Notice, the employer must proceed to comply with the employer responsibilities in this Notice until notified by the Issuing Agency to discontinue withholding. To contest the withholding under this Notice, the employee should contact the Issuing Agency at the address and telephone number listed on the Notice. With respect to plans subject to ERISA, it is the view of the Department of Labor that Federal Courts have jurisdiction if the employee challenges a determination that the Notice constitutes a Qualified Medical Child Support Order. Contact for Questions

If you have any questions regarding this Notice, you may contact the Issuing Agency at the address and telephone number listed on the notice. Instructions to Plan Administrator

This Notice has been forwarded from the employer identified above to you as the plan administrator of a group health plan maintained by the employer (or a group health plan to which the employer contributes) and in which the noncustodial parent/participant identified above is enrolled or is eligible for enrollment.

This Notice serves to inform you that the noncustodial parent/participant is obligated by an order issued by the court or agency identified above to provide health care coverage for the child(ren) under the group health plan(s) as described on Part B

(A) If the participant and child(ren) and their mailing addresses (or that of a Substituted Official or Agency) are identified above, and if coverage for the child(ren) is or will become available, this Notice constitutes a "qualified medical child support order" (QMCSO) under ERISA or CSPIA, as applicable. (If any mailing address is not present, but it is reasonably accessible, this Notice will not fail to be a QMCSO on that basis.) You must, within 40 business days of the date of this Notice, or sooner if reasonable:

- Complete Part B - Plan Administrator Response - and send it to the Issuing Agency:

- if you checked Response 2:

- notify the noncustodial parent/participant named above, each named child, and the custodial parent that coverage of the child(ren) is or will become available (notification of the custodial parent will be deemed notification of the child(ren) if they reside at the same address);
- furnish the custodial parent a description of the coverage available and the effective date of the coverage, including, if not already provided, a summary plan description and any forms, documents, or information necessary to effectuate such coverage, as well as information necessary to submit claims for benefits;

- if you checked Response 3:

- if you have not already done so, provide to the Issuing Agency copies of applicable summary plan descriptions or other documents that describe available coverage including the additional participant contribution necessary to obtain coverage for the child(ren) under each option and whether there is a limited service area for any option;
- if the plan has a default option, you are to enroll the child(ren) in the default option if you have not received an election from the Issuing Agency within 20 business days of the date you returned the Response. If the plan does not have a default option, you are to enroll the child(ren) in the option selected by the Issuing Agency.
- if the participant is subject to a waiting period that expires more than 90 days from the date of receipt of this Notice, or has not completed a waiting period whose duration is determined by a measure other than the passage of time (for example, the completion of a certain number of hours worked), complete Response 4 on the Plan Administrator Response and return to the employer and the Issuing Agency, and notify the participant and the custodial parent; and upon satisfaction of the period or requirement, complete enrollment under Response 2 or 3, and
- upon completion of the enrollment, transfer the applicable information on Part B - Plan Administrator Response to the

employer for a determination that the necessary employee contributions are available. Inform the employer that the enrollment is pursuant to a National Medical Support Notice.

(B) If within 40 business days of the date of this Notice, or sooner if reasonable, you determine that this Notice does not constitute a QMCSO, you must complete Response 5 of Part B - Plan Administrator Response and send it to the Issuing Agency, and inform the noncustodial parent/participant, custodial parent, and child(ren) of the specific reasons for your determination.

(C) Any required notification of the custodial parent, child(ren) and/or participant that is required may be satisfied by sending the party a copy of the Plan Administrator Response, if appropriate. Unlawful Refusal to Enroll

Enrollment of a child may not be denied on the ground that: (1) the child was born out of wedlock; (2) the child is not claimed as a dependent on the participant's Federal income tax return; (3) the child does not reside with the participant or in the plan's service area; or (4) because the child is receiving benefits or is eligible to receive benefits under the State Medicaid plan. If the plan requires that the participant be enrolled in order for the child(ren) to be enrolled, and the participant is not currently enrolled, you must enroll both the participant and the child(ren). All enrollments are to be made without regard to open season restrictions. Payment of Claims

A child covered by a QMCSO, or the child's custodial parent, legal guardian, or the provider of services to the child, or a State agency to the extent assigned the child's rights, may file claims and the plan shall make payment for covered benefits or reimbursement directly to such party. Period of Coverage

The alternate recipient(s) shall be treated as dependents under the terms of the plan. Coverage of an alternate recipient as a dependent will end when similarly situated dependents are no longer eligible for coverage under the terms of the plan. However, the continuation coverage provisions of ERISA or other applicable law may entitle the alternate recipient to continue coverage under the plan. Once a child is enrolled in the plan as directed above, the alternate recipient may not be disenrolled unless:

- The plan administrator is provided satisfactory written evidence that either:
- the court or administrative child support order referred to above is no longer in effect, or
- the alternate recipient is or will be enrolled in comparable coverage which will take effect no later than the effective date of disenrollment from the plan;
- The employer eliminates family health coverage for all of its employees; or
- Any available continuation coverage is not elected, or the period of such coverage expires.

Contact for Questions
If you have any questions regarding this Notice, you may contact the Issuing Agency at the address listed on the notice. Termination Notices When to Report Terminations?

A termination occurs when the employee quits, retires, is fired or laid-off. All terminated employees who have child support income withholding orders must report employee terminations to the child support office that issued the income withholding order/notice. Reporting a termination should be done as soon as possible following the termination date.

Reporting a termination lets the child support office know why the employer is no longer withholding income. Thus the child support office is alerted to issue a new income withholding order as appropriate. Even if the employee left during the first pay period, a termination report must be made because:

- An employer-employee relationship existed
- The employee filled out a W-4 form
- A new hire report was submitted for that employee
- A withholding order/notice was received for that employee

How to Report Terminations?
Upon termination, mail or fax the following information to the office which sent the income withholding notice:

- Employee's Full Name
- Employee's Social Security Number
- Employee's Last Known Home Address
- New Employer and Address (if known)
- Date of Separation

Additional information on medical support or insurance must be reported, primarily to avoid interruption of medical coverage for the employee's child(ren).

The employee must make child support payments directly to SCaDU until a new income withholding order/notice is issued to a new employer. This action will avoid any interruption of child support payments and accrual of child support debt for the employee's child(ren).